

The Michigan Judicial Institute Presents:

Juvenile Delinquency Proceedings Overview

A Training Seminar for Court Support Personnel

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Chief Probate and Family Division Judge, Cass County

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Introduction to Delinquency Matters

■ Resources to reference in your materials

- Web links to Juvenile Justice Benchbook, Court Rules, and SCAO Forms
- Definitions, Phases, and examples of SCAO Forms
- Table of Time and Notice Requirements

■ Special court procedural rules apply

■ Delinquency is not a criminal act by definition

- Involves proceedings where a minor violates a criminal law or ordinance. MCL 712A.1

■ Jurisdiction may extend to 19 or 21 years of age

■ Heard in Family Division of the Circuit Court

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Matters that are NOT Delinquent

- Abuse and neglect (Protective proceedings)
- Status offenses
- Motor Vehicle Code violations brought under MCL 712A.2b
- Wayward minors over 16
MCL 712A.2(d) (1)-(5)
- Personal Protection Orders (PPOs)

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Key Definitions

- MCR 3.903(A)(18)(a) defines party as petitioner and juvenile
- MCR 3.903(B) defines detention, juvenile, offense by juvenile, and prosecuting attorney
- **Juvenile** is defined as “a minor alleged or found to be within the jurisdiction of the court for having committed an offense.”
- **Detention** means “court-ordered removal of a juvenile from the custody of a parent...”
MCR 3.903(B)(1)

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The Basics

- **General Procedure**
 - Set forth in Court Rules. See MCR 3.900. et seq.
 - Other Court Rule chapters apply. See Table 1.2 of Juvenile Justice Benchbook.
- **Advice of Rights**
 - Attorney at all stages MCR 3.915
 - When must attorney be appointed?
 - Jury by demand MCR 3.911
 - Judge on formal calendar MCR 3.912
 - Appeal from Referee MCR 3.913

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Initiating Delinquency Proceedings

- **Commencement of proceedings and petition requirements MCR 3.931**
 - Requests by written petition
 - **Petition** for court action is a complaint or other written allegation verified in the manner provided in MCR 2.114(A), ... that a juvenile has committed an offense. MCR 3.903(A)(19)
 - Specific information required in petition
- **Only Prosecuting Attorney may submit a petition charging a juvenile with a criminal offense.**
MCL 712A.11(2) Forms JC 02/JC 04

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Initiating Delinquency Proceedings (con't.)

- Citation or appearance ticket may serve as a petition for misdemeanors as violations of MVC. MCR 3.931
- Preliminary Inquiries MCR 3.932
 - Deny authorization
 - Refer to diversion MCL 722.821 et seq.
 - Conduct informal hearing
 - Consent Calendar MCR 3.932(C)
 - Formal Calendar MCR 3.932(A)(5)
 - Crime Victim's Rights Act applies MCR 3.932(B); MCL 780.781(1)(f); Benchbook, p. 4.3

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Initiating Delinquency Proceedings (con't.)

- **Preliminary hearing MCR 3.395; Juvenile Justice Benchbook Chapter 5**
 - Timing of hearing
 - Special adjournment available
 - Procedure for hearing officer MCR 3.935
 - Court authorizes the filing of the petition
 - When a juvenile can be detained
 - When a juvenile may be released
 - Bond may be set MCR 3.935(F)
 - Probable cause may be based on hearsay
 - Findings must be on record or in writing
 - Forms JC 09/JC 10

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Notice and Time Requirements

- Resources
 - Service of Process MCR 3.920
 - Benchbook, Chapter 6
- Notice
 - Persons entitled to notice of all proceedings MCR 3.921(A)(1)
 - The non-custodial parent MCR 3.920(B)(2)(a)
 - Putative Dad MCR 3.921(C)
 - Summons
- See Time and Notice Requirements Chart

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Authorized Petitions

- When a petition is “**authorized to be filed**”, it becomes a “**record**”.
 - All records of the court, other than confidential files are open to the public. MCL 712A.28(2); MCR 3.925(D)(1)
- An authorized petition is deemed “**filed**” when it is delivered to, and accepted by, the juvenile register or clerk of the court. MCR 3.903(A)(9)
- Because delinquency cases are within the jurisdiction of the Family Division of the Circuit Court, filing is with the County Clerk. MCL 600.1007
- An authorized petition is either placed on the “**consent calendar**” or the “**formal calendar**”. Consent must occur before authorization unless transferred from formal calendar.

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Consent Calendar Proceedings

- **Consent Calendar proceedings are specified in the Court Rules.**
 - Informal process.
 - If it appears to the court that the juvenile has engaged in conduct that would subject the juvenile to the jurisdiction of the court, the court may issue a written consent calendar case plan. MCR 3.932(C)(4)
 - Case may be transferred to the Formal Calendar for hearing/trial under some circumstances.
 - Juvenile’s statements during the consent calendar process cannot be used against him/her.

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Formal Calendar Proceedings

- **Authorized petitions may be placed on the formal calendar.**
 - May result when no request for detention through a **preliminary inquiry**. MCR 3.932(A)
 - May also result when detention is requested through a preliminary hearing MCR 3.935
 - Authorized petitions are assigned to the same judge previously involved with the family.
 - Transfer of jurisdiction for non-residents of county. JC 29
 - Notify other courts with prior or continuing jurisdiction MCL 712A.3a; MCR 3.927

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Authorized Petitions (con't.)

■ Right to Counsel

MCL 712A.17c(1); MCR 3.915(A)(1)

- Forms JC 06, JC 03, JC 07

■ Fingerprints and photographs of juveniles

- May be photographed or fingerprinted while in custody.

MCR 3.923(C)

- Form JC 16 and form MC 233

- May have to appear for a lineup. MCR 3.923(D)

- Form JC 16

■ Venue may be changed upon motion of a party

MCR 3.923(F)

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Authorized Petitions (con't.)

- Delinquency proceedings may be closed to protect the welfare of a child or victim.

MCR 3.925(A)(2) and MCL 712A.17(7)

- Form JC 41

■ Plea MCR 3.941

- Form JC 13

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Authorized Petitions (con't.)

■ Trials

- Must be held timely.

- If the allegations in the petition are not sustained, the petition will be dismissed.

- Form JC 14

- Return of fingerprints form MC 235

- If allegations are sustained, the court will "adjudicate" the juvenile.

- Form JC 59

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Disposition MCR 3.943(E)(1)

- Time – 35 days unless good cause to adjourn
- Mandatory orders
 - If juvenile was adjudicated for a qualifying offense he/she must be fingerprinted before disposition.
 - Form MC 233
 - A juvenile must be tested for certain diseases.
 - Form MC 234
 - A juvenile may be required to provide blood samples for DNA testing.
 - Form MC 283

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Disposition (con't.)

- A juvenile adjudicated of a "**juvenile offense**" under the Crime Victim's Rights Act must pay a \$20 assessment to the CVR Fund
MCL 712A.18(12) and MCL 780.905(2)
- **Disposition Report to MSP and SOS**
- **Restitution may be ordered at disposition**
MCL 712A.18(8); MCL 712A.30
- **Dispositional alternatives** MCL 712A.18; MCR 3.943
- **Orders**
 - Forms JC 14, JC 25

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Disposition (con't.)

- Unless the juvenile is warned and the petition dismissed, the disposition order will fix a review date.
- Clerk of the Court reports the disposition to the State Police, including the finding from the judge/jury and a summary. MCL 712A.18(11)
- Any prior courts of continuing jurisdiction must be notified of the order. MCL 712A.3a
- The Order of Disposition may contain the reimbursement provisions for costs of care or service and attorney fees. Form JC 38
- Dispositional reviews are held MCR 3.945
- Probation Violations MCR 3.944

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Records

- **Register of actions** MCR 3.903(A)(25)
 - The clerk must maintain a permanent register of actions. MCR 8.119(A); Benchbook 25.1
- **Access to records**
 - Files are open to the public except confidential files.
 - Define confidential files MCR 3.903(A)(3-4)
 - Files made confidential by statute or court rule.
 - Contents of a social file maintained by the court.
 - Petitions not authorized fall outside the definition of records and therefore are confidential.
 - If a document from the confidential file is admitted into evidence, that document becomes a record.

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Records (con't.)

- **Access to confidential files**
 - Only made accessible to persons found by the court to have a legitimate interest. MCR 3.925(D)(2)
- **Destruction of records** MCR 3.925(E)(1)
 - 25.6 of Benchbook
- **Sending abstracts to SOS**
 - 25.15 of Benchbook
- **Setting aside a juvenile adjudication** MCR 3.925(F)(1)
 - 25.16 of Benchbook
- **Record keeping requirements of the Sex Offender Act**
 - 25.18 of Benchbook
- **DNA profiling**
 - 25.19 of Benchbook
- **Required Communicable Disease Testing**
 - 25.20 of Benchbook

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Resources

- **Web links to:**
 - Michigan Juvenile Law Sourcebook
 - Michigan Court Rules
 - Juvenile Justice Benchbook
 - Updates to Benchbook
 - Juvenile Delinquency Forms
 - Handbook of Legal Terms
- **Definitions**
- **Family Division SCAO Approved Forms**
- **Time and Notice Requirements**
- **Phases and Forms**

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Question and Answer

- Honorable Susan Dobrich will answer questions from onsite and webcast participants.
